IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

OP.No. 34559 of 2001(L)

PETITIONER:

DR.RAJAN CHETTIAR,
VELU VIHAR,
PUTHECHANTHAI, VARKALA.

BY ADV. SRI.O.RAMACHANDRAN NAMBIAR
SRI.S.RAJEEV

RESPONDENTS:
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1. **STATE OF KERALA REP.BY THE SECRETARY TO GOVERNMENT, TAXES DEPARTMENT, SECRETARIAT, TRIVANDRUM.**

2. **THE DISTRICT COLLECTOR, THIRUVANANTHAPURAM.**

3. **THE REVENUE DIVISIONAL OFFICER THIRUVANANTHAPURAM.**

4. **THE TAHSILDAR, CHIRAYINKEEZH.**

BY GOVERNMENT PLEADER SRI. C.K.GOVINDAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.56459/2001 IN OP. NO.34559/2001

DISMISSED

13.06.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER DT. 28.6.97 PASSED BY THE 4TH RESPONDENT.

EXT.P2:- COPY OF THE ORDER DT. 26.11.97 PASSED BY THE 3RD RESPONDENT.

EXT.P3:- COPY OF THE ORDER DT. 29.12.97 PASSED BY THE 4TH RESPONDENT.

EXT.P4:- COPY OF THE ORDER DT. 13.5.99 PASSED BY THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE ORDER DT. 21.8.01 PASSED BY THE 2ND RESPONDENT.

EXT.P6:- COPY OF THE ORDER DT. 20.10.01 OF THE 4TH RESPONDENT.

EXT.P7:- COPY OF THE DOCUMENT DT. 27.1.98 FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

EXT.P8:- COPY OF THE CERTIFICATE DT. 12.1.05 ISSUED BY THE SECRETARY, VETTOOR GRAMA PANCHAYAT.

/TRUE COPY/

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KURIAN JOSEPH J.

O.P. NO.34559 OF 2001

Dated 13th June, 2007.

J U D G M E N T

Whether the petitioner is entitled to have the pre-revised rate in the matter of building tax is the crux of the dispute between the parties. Petitioner relies on Ext.P8 certificate to show that the construction of the building had already been completed on 21.5.1996. The said document was not produced by the petitioner before the District Collector and therefore, no reference as such is made in the counter affidavit with regard to the same. According to the petitioner, going by the certificate issued by the Grama Panchayat, the inspection conducted by the Village Officer and the documents given by the Bank, it can be seen that the construction of the building had already been completed on 21.5.1996. Apparently, these aspects are not seen referred to specifically by the revisional authority. The said authority cannot be blamed also, since many of the materials now sought to be relied on by the petitioner were not produced before the revisional authority. However, having regard to the contentions now advanced by the petitioner, I am of the view that it is only in the

interests of justice that the matter is directed to be considered afresh by the District Collector, based on the materials now produced before this Court also. I quash Ext.P5 with a direction to the District Collector to consider the matter afresh with notice to the petitioner, and permitting the petitioner to produce materials which he intends to rely on. Appropriate orders as above shall be passed by the District Collector within six months from the date of production of a copy of the judgment. Since Ext.P5 has been quashed, Ext.P6 also is quashed. Any further demand can be made only after the matter is considered afresh by the District Collector.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO.34559 OF 2001 (L)

J U D G M E N T

Dated 13th June, 2007.